

EXHIBIT 4

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19-2308-cv

Mandala v. NTT Data, Inc.

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 23rd day of February, two thousand twenty-one.

Present:

DEBRA ANN LIVINGSTON,
Chief Judge,
JOSÉ A. CABRANES,
ROSEMARY S. POOLER,
ROBERT A. KATZMANN,
DENNY CHIN,
RAYMOND J. LOHIER, JR.,
SUSAN L. CARNEY,
RICHARD J. SULLIVAN,
JOSEPH F. BIANCO,
MICHAEL H. PARK,
WILLIAM J. NARDINI,
STEVEN J. MENASHI,
Circuit Judges.

GEORGE MANDALA, CHARLES
BARNETT, individually and on behalf of
all others similarly situated,

Plaintiffs-Appellants,

v.

19-2308-cv

NTT DATA, INC.,

Defendant-Appellee.

For Plaintiffs-Appellants:

Ossai Miazad, Lewis M. Steel, Christopher M. McNerney, Outten & Golden LLP, New York, NY; Rachel Bien, Outten & Golden LLP, Los Angeles, CA; Sherrilyn A. Ifill, Janai S. Nelson, Samuel Spital, Rachel M. Kleinman, NAACP Legal Defense & Educational Fund, Inc., New York, NY; Catherine Meza, NAACP Legal Defense & Educational Fund, Inc., Washington, DC.

For Defendant-Appellee:

Jacqueline Phipps Polito, Jessica F. Pizzutelli, Littler Mendelson P.C., New York, NY.

Following disposition of this appeal on September 21, 2020, Plaintiffs-Appellants filed a petition for rehearing *en banc* and an active judge of the Court requested a poll on whether to rehear the case *en banc*. A poll having been conducted and there being no majority favoring *en banc* review, the petition for rehearing *en banc* is hereby **DENIED**.

Richard J. Sullivan and William J. Nardini, *Circuit Judges*, joined by Debra Ann Livingston, *Chief Judge*, and José A. Cabranes and Michael H. Park, *Circuit Judges*, concur by opinion in the denial of rehearing *en banc*.

Rosemary S. Pooler, *Circuit Judge*, joined by Denny Chin, Raymond J. Lohier, Jr., and Susan L. Carney, *Circuit Judges*, dissents by opinion from the denial of rehearing *en banc*.

Denny Chin, *Circuit Judge*, joined by Rosemary S. Pooler, Robert A. Katzmann, Raymond J. Lohier, Jr., and Susan L. Carney, *Circuit Judges*, dissents by opinion from the denial of rehearing *en banc*.

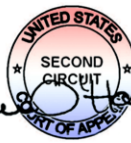
Raymond J. Lohier, Jr., *Circuit Judge*, joined by Rosemary S. Pooler, Robert A. Katzmann, Denny Chin, and Susan L. Carney, *Circuit Judges*, dissents by opinion from the denial of rehearing *en banc*.

Peter W. Hall, *Circuit Judge*, took no part in the consideration or decision of the petition.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

Catherine O'Hagan Wolfe

The seal of the United States Second Circuit Court of Appeals is circular. It features a blue outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in a smaller circle. The seal is positioned over the signature of Catherine O'Hagan Wolfe.